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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,671	09/08/2003	Mark F. Cotton	12587-046001 / D03-047/01	2189
26212 7590 05/13/2009 FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER POND, ROBERT M	
			ART UNIT 3625	PAPER NUMBER
			NOTIFICATION DATE 05/13/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/658,671	<b>Applicant(s)</b> COTTON ET AL.	
	<b>Examiner</b> Robert M. Pond	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2/12/09.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,7-13,15 and 38-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7-13,15 and 38-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.

Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 05 March 2009 and 12 February 2009 have been entered.

### ***Requirement for Information***

An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows: As related the Assignee's "Connection to eBay" service, the Examiner requires press releases, sales/marketing brochures, user manuals, customer manuals and web site screen shots that describe this service. A prior art search reveals the Assignee disclosed public use of connection provider services (i.e. Connection to eBay) with eBay more than a year before the filing date of the instant application. PTO-892 Item U is provided as justification for this requirement for information.

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

/Jeffrey A. Smith/

Supervisory Patent Examiner, Art Unit 3625

***Response to Amendment***

Applicants amended claims 1 and 38 and newly added claims 39-47. Claims 2-6, 14 and 16-37 are canceled. All pending claims 1, 7-13, 15 and 38-47 are examined in this non-final office action in response to the Request for Continued Examination.

***Response to Arguments***

Applicant's arguments, see Remarks, filed 12 February 2009, with respect to the rejection(s) of claim(s) 1, 7-13, 15 and 38-47 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Snapp. Arguments based on previously cited prior art are moot.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**1. Claim 1, 7-13, 15 and 38-47 are rejected under 35 USC 102(e) as being anticipated by Snapp (US 7,440,908).**

Snapp teaches all the limitations of claims 1, 7-13, 15 and 38-47. For example, Snapp discloses an independent third-party bailee that provides fulfillment services for multiple sellers and selects the best suited sales channel(s) for sellers' products based upon pricing/listing strategies as determined by the bailee's optimization engine. See at least title, abstract; Fig. 1; Fig. 2; Fig. 4; Fig. 5; col. 1-col. 14. Snapp further discloses:

- Regarding claim 1. receiving, at a connection provider computer system from a seller's computer system, information describing one or more items for sale by the seller; bailee (takes possession of item but not title) receives item information. Snapp: see at least col. 4, lines 63-67; col. 6, lines 30-39.
- Regarding claim 1. developing, using the connection provider computer system and based on the information describing the one or more items for sale by the seller, a pricing and listing strategy for selling the one or more items on one or more online sales channels selected, from among multiple

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potential online sales channels, as being appropriate for selling the one or more items; sales channels (e.g. eBay, Yahoo!) best suited using a optimization engine. Snapp: see at least Fig. 4; Fig. 5; col. 8, lines 37-48; col. 14, line 62-col. 16, line 19; col. 16-col. 27.

- Regarding claim 1. facilitating, using the connection provider computer system, a sale of the one or more items through the one or more selected online sales channels based on the pricing and listing strategy; Snapp: see at least Fig. 1 (1200); col. 7, lines 41-54; col. 8, lines 19-58.
- Regarding claim 1. determining, using the connection provider computer system, parameters related to preparation activities needed to ready the one or more items for fulfillment of a sale and storage and handling requirements indicating characteristics that a fulfillment center needs to possess in order to properly store and handle the one or more items, the determined parameters being different than the information describing the one or more items for sale by the seller and being determined without the seller providing parameter information for the one or more items being sold; bailee considers criteria provided by the seller or developed by the bailee. Snapp: see at least col. 6, lines 40-65; col. 21, line 57-col. 22, line 12.
- Regarding claim 1. using the connection provider computer system to select, from among multiple potential fulfillment centers based on the determined parameters related to preparation activities and storage and

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handling requirements one or more fulfillment centers tailored to fulfilling orders of items having properties in common with the one or more items;

bailee can have numerous distributed returns locations to facilitate fulfillment. Snapp: see at least col. 5, lines 1-20. See below for further comment.

- Regarding claim 1. and facilitating, using the connection provider computer system, fulfillment of sold items through the one or more selected fulfillment centers tailored to fulfilling orders of items having properties in common with the one or more items, preparation activities (e.g. inspect, example of testing computer chips. Note interpretation: tailored to provide computer inspection/test services. Fulfillment location characterized by handling and storage capabilities of center. Snapp: see at least Fig. 5; col. 23-col. 27.
- Regarding claim 1. wherein the connection provider computer system is operated by a connection provider that is a separate legal entity from the seller and from entities operating the multiple potential online sales channels, independent business entity. Snapp: see at least col. 14, lines 9-12, lines 25-28.
- Regarding claim 1. and wherein the connection provider services multiple, different sellers and facilitates fulfillment of items from multiple, different sellers through the one or more selected fulfillment centers. Snapp: see at least col. 5, lines 1-20.

- Regarding claims 7-13, 15 and 38-47. Rejection is based on Snapp disclosures and interpretations as noted above for claim 1.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US 2005/0033648 (Jin et al.) 10 February 2005 (filed 22 July 2002); discloses an automated listing management system and methods of Fairmarket. Fairmarket provides an independent connection provider service that prices and lists product at one or more auction sites.
- US 5,424,944 (Kelly et al.) 13 Jun 1995; discloses product return facilities, disposition rules and multiple channels for disposition of returned items.
- Connection to eBay; "eBay and Accenture unveil new service....," Business Wire, 07 May 2002; Proquest #1181166491, 3pgs; discloses Accenture and eBay testing "Connection to eBay" by selling "end-of-life" computer equipment on the eBay site.
- Keefe, Collin; "Where haves meet wants," Dealerscope, Jan 2002; v44i1,pg50; Proquest #988243388, 9pgs; discloses connection provider industry (e.g. Channel Advisor, ReturnBuy (i.e. Snapp); Fairmarket) and relationships with eBay and Amazon.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert M. Pond/  
Primary Examiner, Art Unit 3625  
May 6, 2009  
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